

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

IOWA PROTECTION AND
ADVOCACY SERVICES, INC.,

Plaintiff,

vs.

TANAGER PLACE and TANAGER,
INC.,

Defendants.

No. C 04-0069

ORDER

TANAGER PLACE,

Counterclaim Plaintiff,

vs.

IOWA PROTECTION AND
ADVOCACY SERVICES, INC.,

Counterclaim Defendant.

TANAGER PLACE,

Third-Party Plaintiff,

vs.

SYLVIA PIPER,

Third-Party Defendant.


This matter comes before the court pursuant to the October 27, 2005 decision of the Eighth Circuit Court of Appeals. *See generally Iowa Protection & Advocacy Servs. v. Tanager, Inc.*, 427 F.3d 541 (8th Cir. 2005). The Eighth Circuit Court of Appeals determined the controversy was moot, vacated the court's September 30, 2004 injunction and instructed this court to dismiss the complaint with prejudice. Accordingly, the court

dismisses the complaint with prejudice.

Trial remains set on Tanager Place's severed counterclaim for the two-week period beginning on March 20, 2006 at 8:00 a.m. The court previously exercised jurisdiction over the counterclaim because the complaint and then-extant injunction involved a federal question. *See* 28 U.S.C. § 1331. Now that the court has dismissed the complaint, only a state law claim remains. It also appears the parties are not diverse. The parties are therefore directed to brief the issue of whether this court still has jurisdiction over the counterclaim. *See, e.g., Shelton v. Boeing Co.*, 399 F.3d 909, 911 n.2 (8th Cir. 2005) (recognizing "special obligation" of a federal court to consider its own jurisdiction whenever it appears that jurisdiction may be lacking) (citing *Thomas v. Basham*, 931 F.2d 521, 522-23 (8th Cir. 1991)). Briefs shall be filed on or before December 1, 2005.

IT IS SO ORDERED.

DATED this 18th day of November, 2005.



LINDA R. READE
JUDGE, U. S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA